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SUBJECT: CHIEF DARFUR MEDIATOR BASSOLE PUSHES UNSC FOR ICC
DEFERRAL

¶1. (SBU) Summary: Joint UN/AU Chief Mediator Djbril Bassole made his first appearance before the Security Council on March 26. Bassole focused on three factors affecting mediation efforts: the tense relationship between Chad and Sudan; the splintering of Darfuri armed movements; and the International Criminal Court (ICC) indictment of President Bashir on March 4. Council members reaffirmed their support for Bassole's efforts and the peace process. Bassole himself and some members argued for deferral of the ICC prosecution of Bashir, stating that the indictment had negatively impacted the peace process (Uganda, Russia, Burkina Faso, China and Libya). Other members restated their positions that Article 16 deferral is not warranted at this time (United States, United Kingdom, Croatia, and Costa Rica). Libyan PR Shalgham briefed the press in his capacity as Council President, expressing support for Bassole to implement his mandate and for the Government of Qatar's efforts to bring together the Government of Sudan and rebel groups. The Presidency also urged parties to actively engage in negotiations and encouraged Libya and regional countries to continue efforts to normalize Chad/Sudan relations. End Summary.

Bassole Briefs Council

¶2. (SBU) Joint UN/AU Chief Mediator Bassole began his March 26 briefing by identifying three factors that he said complicate mediation efforts: deterioration of Chad-Sudan relations; splintering of Darfuri armed movements; and the ICC indictment of Bashir. Bassole said that the February 2008 attack by Chadian rebels on N'Djamena and the May 2008 attack on Omdurman by Darfuri rebels had destroyed confidence between Chad and Sudan. He said that the diplomatic efforts of Libya, Senegal and other African countries to improve Chad-Sudan relations had been helpful and should be supported by the international community. Bassole also said that some rebel movements are aware that they need to band together to conduct peace negotiations with the Government of Sudan (GOS). He called on members of the Security Council to exercise their influence to encourage rebel movements to resolve their differences and engage constructively in negotiations.

¶3. (SBU) Bassole noted that, as a result of the ICC indictment, rebel movements now vigorously contest Bashir's legitimacy and refuse to engage in dialogue, adopting a wait-and-see approach. He pointed to the decision by the Justice and Equality Movement to suspend its participation in the Doha process and said that the indictment had significantly slowed the political process. Bassole suggested that the Security Council examine the concerns expressed by the African Union concerning the peace process. He briefly discussed the February 17 goodwill agreement between the Government of National Unity and the Justice and Equality Movement as a first step towards an inclusive dialogue. He said that the GOS expulsion of NGOs violated this agreement.

ICC Indictment

14. (SBU) Given the remarks by Bassole that the Council should take into account AU concerns regarding the peace process -- an implicit reference to AU support for Article 16 deferral -- Ambassador DiCarlo stressed that the issue cannot be characterized as the ICC indictment versus the peace process and that all parties must continue to engage in peace negotiations. She also said that the GOS had taken a drastic step post-indictment by expelling NGOs, and that deferral at this time is not warranted. DiCarlo questioned whether a one-year deferral would accomplish anything.

15. (SBU) The UK reinforced this message, saying that the Council must resist the temptation to see peace or justice as mutually exclusive. The UK noted that the dilemma arose because Bashir refused to cooperate with the ICC and that the very high test for Article 16 deferral had not been met. Costa Rica also explicitly supported DiCarlo's statement and said that suspension for one year of the ICC prosecution would not assist the peace process. Croatia emphasized that the peace process should not be influenced by the ICC indictment. Uganda, Burkina Faso, Russia, China and Vietnam repeated their well-known arguments that the Council should defer prosecution of Bashir in order to support the peace process. China called for a "comprehensive" Security Council session to consider all aspects of the Darfur problem, which China listed as: the peace process, UNAMID deployment, humanitarian crisis, economic reconstruction, and impunity/justice.

USUN NEW Y 00000329 002 OF 002

Regional Actors

16. (SBU) Libya made a detailed statement concerning the regional nature of the Darfur conflict and said that normalization of relations between Chad and Sudan was essential. Libya said it would continue its efforts to improve this relationship. Libya argued that rebels have little motive to resolve Darfur's problems through the peace process when the necessities of life are provided them gratis by NGOs. Austria asked Bassole whether an international conference bringing together regional players to discuss Sudan would be helpful to his mediation efforts. (Note: Egypt has offered to host such a meeting. End Note.) Japan said that the upcoming Arab League Summit in Doha on March 28 - 29 would provide an opportunity for Arab countries to signal their commitment to the Darfur peace process. Libya responded that issues concerning Palestine and Gaza would be discussed at the Summit, and claimed that public opinion stands behind Bashir. Libya indicated that the Arab public thinks that if Bashir is being prosecuted, so should Israelis.

17. (SBU) Libya called on France to pressure Sudan Liberation Movement leader Abdel Wahid al-Nur, who resides in Paris, to engage in Darfur peace negotiations. France responded that it had not been Chad, France or the ICC that had initiated the war in Darfur, and that efforts had been made to encourage Wahid's participation in peace talks.

Bassole's Final Comments

18. (SBU) Bassole expressed gratitude for the Council's unanimous support for the mediation. Bassole noted that he feels uncomfortable addressing the ICC issue because as a mediator, he must be impartial. Bassole stated that he holds international institutions in high respect, but noted that his duty as a mediator was to restore trust between the parties. Bassole said that Bashir's indictment undermines the negotiation process. He noted that rebels do not trust

Bashir and that rebel perceptions of divisions within the international community create upheaval and disorder. Bassole encouraged the Council to clearly speak about issues on which everyone agrees, such as encouraging all parties to engage in negotiations. Bassole also urged the Council to avoid creating an impression that one party is favored over another. Bassole also noted that if the Council could send a signal to revitalize the Doha talks, this would be helpful.

¶9. (SBU) Bassole outlined his ideas for the way forward by noting that he would like to conduct consultations that would result in a Framework Agreement. Optimistically, if all goes well, Bassole said that in three months he could set a date for final negotiations. Regarding Austria's question about the helpfulness of a conference with regional actors concerning Sudan, Bassole noted that for now, this would not be helpful.

Press Statement

¶10. (SBU) Turkey raised the issue of the Presidency orally briefing media to express support for Bassole's efforts and encourage continuation of the Doha talks. The Council agreed to the following five elements: expressing support for Bassole's mediation efforts; stressing the importance of continuing the peace process; urging the parties to engage actively in negotiations; expressing support for the Doha process; and encouraging the good offices of Libya and regional countries to normalize relations between Chad and Sudan.
Wolff